

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>RIFLE GAP LAND COMPANY,</p> <p>v.</p> <p>Respondent:</p> <p>PROPERTY TAX ADMINISTRATOR.</p>	<p>Docket No.: 46482</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on April 11, 2007, Karen E. Hart, Debra A. Baumbach, and MaryKay Kelley presiding. Petitioner was represented by Barbara L. Clifton, Esq. Respondent was represented by Robert H. Dodd, Esq. Petitioner is requesting an abatement/refund of taxes on the subject property for tax year 2002.

PROPERTY DESCRIPTION:

The subject property is described as follows:

**3004 Highway 325, Rifle, Colorado
Garfield County Schedule Nos. 2129-134-00-013 and 2129-134-00-068**

Rifle Gap Land Company, a nonprofit corporation, owns the 18-hole Rifle Creek Golf Club. A lease for municipal use of the course with the City of Rifle has been in effect since March 31, 1988. Reduced user fees support operations, debt retirement, and course improvements. The club hosts numerous charitable events and supports golf programs for youth.

Petitioner testified that continuance of its municipal lease tax exemption, in effect since 1988, appeared to be in question due to the county’s re-classification of the subject property in 2002. In December, Petitioner filed for a 2002 tax exemption based on charitable use. Following extensive correspondence and two tentative determinations, final determination for denial was issued on December 22, 2005.

In August of 2005, anticipating denial and learning that the property had not been re-classified, Petitioner researched the original five-year municipal lease, verifying its active status on an annual basis unless revoked. Following final determination of denial of the exemption petition, on December 28, 2005 Petitioner filed a petition for abatement of taxes for years 2002 through 2005 based on the municipal lease. It was approved by the Board of County Commissioners (“BOCC”) and forwarded to the Property Tax Administrator (“PTA”) because the amount of the abatement exceeded the BOCC’s approval limit. The PTA approved the petition for tax years 2003 through 2005 but denied tax year 2002 because it fell outside the deadline set forth in statute. Colorado Revised Statutes (“C.R.S”) section 39-10-114(1)(a)(I)(A) states that “in no case shall an abatement or refund of taxes be made unless a petition for abatement or refund is filed within two years after January 1 of the year following the year in which taxes were levied.”

Respondent argued that C.R.S. section 39-10-114 clearly states the two-year applicable time frame for appeal. The Board concurred. An abatement petition for tax year 2002 should have been filed prior to January 1, 2004

Petitioner cited *Woodmoor Improvement Ass’n v. Property Tax Administrator*, 895 P.2d 1087 (Colo. Ct. App. 1994), contending that an equitable exception to the statute deadline exists based on the following: the state’s delay in making final determination on the charitable exemption; payment of taxes during the exemption petition time frame; and the existence of the municipal lease. The Board disagreed. The *Woodmoor* case had no bearing. The Board agreed that the exemption approval time frame was excessive. However, Petitioner was not prevented from filing a timely abatement petition or advised to delay filing an abatement petition. The statutory abatement filing deadline is clear and Petitioner did not timely file.

ORDER:

The petition is denied.

APPEAL:

Petitioner may petition the Court of Appeals for judicial review within 45 days from the date of this decision.

In addition, if the decision of the Board is against the Respondent, the Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law when the Respondent alleges procedural errors or errors of law by the Board of Assessment Appeals.

If the Board recommends that this decision is a matter of statewide concern, or if it results in a significant decrease in the total valuation of the county, Respondent may petition the Court of Appeals for judicial review within 45 days from the date of this decision.

If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation for assessment of the county in which the property is located, the Respondent may petition the Court of Appeals for judicial review of such questions with 45 days from the date of this decision.

DATED and MAILED this 6th day of June 2007.

BOARD OF ASSESSMENT APPEALS

Karen E Hart

Karen E. Hart

Debra A. Baumbach

Debra A. Baumbach

MaryKay Kelley

MaryKay Kelley

This decision was put on the record

JUN 05 2007

I hereby certify that this is a true and correct copy of the decision of the Board of Assessment Appeals.

As Hi

Heather Heinlein

